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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,280	03/23/2004	Philip Feldman	2217.0007CIP	1846

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EXAMINER	
NGUYEN, KIM T	

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
07/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/806,280	FELDMAN ET AL.	
	Examiner	Art Unit	
	Kim T. Nguyen	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 April 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 7-43* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 7-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

According to the Panel Decision from Pre-Appeal Brief Review, the finality of the rejection of the last Office action issued on 6/16/06 is withdrawn. A new finality of the office action based on the amendment filed on 4/3/06 is addressed as following:

Claim Objections

1. Claims 1 and 23 are objected to because of the following informalities:

In claim 1, line 12; and claim 23, line 5, the claimed limitation "a user" should be corrected to "the user".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-4, 7, 23, 25-26, 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawabata et al (US 6,514,145).

Re claims 1, Kawabata discloses a support structure for enabling interaction with a gaming application. The support structure comprises a base (Fig. 3) in the form

of platform to directly support a user thereon; a game controller 5 (Fig. 1) includes a plurality of input devices 6 (Fig. 1) to interact with the gaming application (col. 4, lines 58-63); a rod (e.g. column 4 in Fig. 1) secured to the base wherein the game controller is directly attached to an upper portion of the rod (Fig. 6) and the rod includes dimensions sufficient to support the game controller above the based and in a position enabling the user to operate the game controller in a standing position (Fig. 6; col. 4, lines 58-63; and col. 5, lines 49-50); and a body support on the base to support the user lower body portion (Fig. 5).

Re claims 3 and 4, Kawabata discloses including a dimension adjustment mechanism to adjust dimension of the rod and a position of the game controller (col. 7, lines 51-55).

Re claim 7, Kawabata discloses including a post secured to the base to support the user lower body portion and a support member secured to the post (Fig. 5).

Re claims 23, 25-26 and 28, refer to discussion in claims 1 and 3-4 above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 11-18, 20-22, 32-39 and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al (US 6,514,145) in view of Terutaka (JP 11-309270).

Re claims 11-13, Kawabata does not disclose that the rod provides an isometric exercise for the user and includes a sensor coupled to a selected location on the rod. However, Terutaka discloses an isometric exercise, including a sensor in the rod to measure force and including a processor for receiving and process data corresponding to the applied force (paragraphs 0064-0065, 0085 and 0102). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the rod as taught by Terutaka to the device of Kawabata in order to playing game during exercising.

Re claims 14 and 18, including a display in a game controller, and including a handle in a game controller for receiving force from a user would have been well known to a person of ordinary skill in the art at the time the invention was made.

Re claims 15-17, Terutaka discloses determining an amount of work, outputting information relating to the amount of work, and adjusting the force applied by the user (paragraphs 0023, 0018-0019, 0039, 0050 and 0102).

Re claims 20-22, refer to discussion in claims 1, 3 and 11 above. Further, Kawabata discloses attaching the rod to a platform 2 (Fig. 1). Further, attaching the rod to a wall, ceiling, floor, or door would have been both well-known and obvious design choice.

Re claims 32-39 and 41-43, refer to discussion in claims 11-18 and 11-13 above.

6. Claims 2, 5, 8-10, 19, 24, 27, 29-31 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al (US 6,514,145).

Re claim 2, Kawabata does not disclose including a gripping surface in the base. However, placing a gripping surface on the upper surface of foot support to accommodate user feet would have been well known to a person of ordinary skill in the art at the time the invention was made. One of ordinary skill in the art would have found it obvious to place the old and well known gripping surface on the surface of a platform in order to retaining the user's foot on the device.

Re claims 5, 8-10, 19, Kawabata does not disclose using pivot mechanism to adjust orientation of a device and manipulating input device to effect isokinetic or isotonic exercise. However, adjusting a support member (e.g. a chair) to a higher or lower position using a dimension adjustment mechanism for adjusting the position of a chair, and manipulating input device to effect isokinetic or isotonic exercise would have been well known to a person of ordinary skill in the art at the time the invention was made.

Re claims 24, 27, 29-31 and 40, refer to discussion in claims 2, 5, 8-10 and 19 above.

Response to Arguments

7. Applicant's arguments filed on 4/3/06 have been considered but are moot in view of the new ground(s) of rejection.

It is noted that the result from the Pre-Appeal Brief Conference is Reopen Prosecution because at least independent claims 1 and 23 should be rejected under 35 USC 102(e) as being anticipated by Kawabata et al, instead of 103(a). Therefore, the finality of the rejection of the last Office action issued on 6/16/06 is withdrawn. A new finality of the office action is addressed as above.

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any response to this final action should be mailed to:

Box AF:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(571) 273-8300, (for formal communications; please mark "EXPEDITED PROCEDURE").

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim T. Nguyen whose telephone number is (571) 272-4441. The examiner can normally be reached on Monday-Thursday from 8:3OAM to 5:OOPM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on (571) 272-7147. The central official fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kim T Nguyen

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Date: July 21, 2007

Kim T. Nguyen
Primary Examiner
Art Unit 3714